THE HOBN'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 12325 of 2006

Oral order:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner joined the service of the respondents-APSRTC as Conductor on 13.09.1968. While working as such, he was removed from service by orders dated 11.08.1972. Assailing the said order, the petitioner raised an industrial dispute in I.D. No. 224 of 1985, and the Labour Court, vide award dated 04.04.1985, allowed the I.D., set aside the order of removal and directed the respondents to reinstate him with continuity of service and attendant benefits, but without backwages. Pursuant to the said award, the petitioner was reinstated into service on 22.10.1986, and on attaining the age of superannuation, he retired from service on 31.08.2003. It is the case of the petitioner that at the time of his retirement, the respondents did not pay him gratuity for the period from 04.04.1972 to 21.10.1986 i.e., from the date of passing of order of removal till the date of his reinstatement into service by virtue of the award. It is the case of the petitioner that he made representation dated 31.10.2003, followed by two other representations dated 21.11.2003 and 13.12.2004 requesting the respondents to pay gratuity for the above-said period in vain. Hence, he filed the present writ petition.

It is submitted by the learned counsel for the petitioner and admitted to by the learned Standing Counsel for the respondents-APSRTC that the subject-matter of this writ petition is squarely covered by a judgment of a learned single Judge of this court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**[1], wherein it was held that when once the Labour Court set asides the order of removal and directs reinstatement of the petitioner into service with continuity of service, the respondents-APSRTC cannot deny payment of gratuity to the petitioner for the period for which he was out of service as a result of the order of removal.

Inasmuch as, the Labour Court, vide its award dated 04.04.1985 passed in I.D. No. 224 of 1992, while setting aside the order of removal

dated 11.08.1972 passed against the petitioner, directed the respondents to reinstate the petitioner with continuity of service and without backwages, the petitioner is entitled to be paid gratuity for the period he remained out of employment from 11.08.1972 to 11.10.1986, i.e. from the date of removal order till the date of his reinstatement into service, and the action of the respondents in denying gratuity to the petitioner for the aforesaid period, is illegal and arbitrary.

Since the facts of this case, are squarely covered by the judgment of a learned single Judge of this Court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**, following the said judgment, and for the reasons mentioned above, this writ petition has to be allowed, and it is accordingly allowed in terms thereof. The respondents shall compute the gratuity payable to the petitioner taking into account the out of employment period i.e. from 11.08.1972, on which day order of removal was passed to 21.10.1986, on which day, he was reinstated into service by virtue of the award of the Labour Court, and after computing, pay the balance gratuity to the petitioner within a period. No costs.

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N.V. RAMANA, J.

Dated: 22nd June, 2006.
KSR

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[1] 1998 (3) ALD 76